

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

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|------------------------------------|---|---------------------------------------|
| Johnathan D. Simmons, |) | |
| |) | Civil Action No.: 1:09-cv-653-TLW-SVH |
| Plaintiff, |) | Civil Action No.: 1:09-cv-858-TLW-SVH |
| vs. |) | |
| |) | |
| South Carolina Department of |) | |
| Corrections, John Vickers, Michael |) | |
| Najjar, Warden McCall, and Officer |) | |
| Smith, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

ORDER

On March 11, 2011, this Court issued an Order accepting the Report and Recommendation issued in this case, granting summary judgment to the defendants with respect to the plaintiff's claims pursuant to 42 U.S.C. § 1983, and declining to exercise supplemental jurisdiction over any remaining state law claims. (No.: 1:09-cv-653-TLW-SVH, Doc. # 125; No.: 1:09-cv-858-TLW-SVH, Doc. # 105). In August 2011, the plaintiff filed a document which was docketed as objections. (No.: 1:09-cv-653-TLW-SVH, Doc. # 132; No.: 1:09-cv-858-TLW-SVH, Doc. # 112). It was stamped as received by the prison mailroom on August 26, 2011.

To the extent this document (No.: 1:09-cv-653-TLW-SVH, Doc. # 132; No.: 1:09-cv-858-TLW-SVH, Doc. # 112) is objections to the Magistrate Judge's Report and Recommendation, it is untimely, as objections were due on February 7, 2011. However, this Court has reviewed the objections. The "objections" provide no basis to modify this Court's Order accepting the Report and Recommendation in this case. To the extent the document is a motion to alter or amend a judgment under Federal Rule of Civil Procedure 59(e), it is denied as untimely, as judgment was entered in this case on March 11, 2011 (No.: 1:09-cv-653-TLW-

SVH, Doc. # 126; No.: 1:09-cv-858-TLW-SVH, Doc. # 106). See Fed. R. Civ. P. 59(e) (“A motion to alter or amend a judgment must be filed no later than 28 days after the entry of judgment.”). The motion to amend or alter judgment, to the extent that is what the plaintiff seeks, is denied under Rule 59.

IT IS SO ORDERED.

s/Terry L. Wooten
TERRY L. WOOTEN
United States District Judge

October 2, 2012
Florence, South Carolina